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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------|------------------|
| 10 001,867 | 11/19/2001 | Johnnie E. Floyd | 6016.37002 | 1551 |
| 21000 | 7590 | 06.25.2003 | | |
| DECKER, JONES, MCMACKIN, MCCLANE, HALL & BATES, P.C. BURNETT PLAZA 2000 801 CHERRY STREET, UNIT #46 FORT WORTH, TX 76102-6836 | | | EXAMINER SUGARMAN, SCOTT J | |
| | | | ART UNIT 2873 | PAPER NUMBER |

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/001,867 | FLOYD, JOHNNIE E. |
| Examiner | Art Unit | |
| Scott J. Sugarman | 2873 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 November 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-28 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-28 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 19 November 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by

Treisman et al. Treisman et al teaches a lens arrangement for use in applying a corrective power having a fluid lens cell having a chamber formed by first and second lens elements (10 and 11), the chamber being sealed by a seal (elements 13, 14, 15, 16, 17, 18) and containing a transparent fluid (col. 3, lines 22-25). The first and second lens elements are made of a transparent material, one of the first or second lens elements being flexible (col. 3, lines 13-16). A passage (20) coupled to the fluid lens cell so as to allow communication with the chamber, the passage providing for flow of the fluid therethrough so that the volume of the chamber can be changed (col. 3, lines 22-28). A rigid third lens element having first and second surfaces (81, 81) that are shaped to provide optical correction (col. 6, lines 14-17), the third lens element can be removably coupled to an exterior of the fluid cell (col. 6, lines 11-14) so as to be adjacent to the fluid cell and optically aligned with the fluid cell (see Fig. 8). When there is air in the cell, it would inherently have a null correction whether or not the membrane is flexed or unflexed, since the membranes do not have any power by

themselves and air has an index of 1. The flexible membrane lens elements can have a negative power (col. 5, lines 30-33). One of the first or second surfaces of the third lens element is cylindrical, and has a cylindrical axis (col. 6, lines 14-19). At least one of the surfaces of the first, second or third lens elements can be coated, shaded or polarized (col. 6, lines 22-24). The third lens element is coupled to the fluid cell independently of the fluid lens seal, wherein the third lens element can be removed from the lens arrangement without disturbing the seal (col. 6, lines 11-14). The third lens element is rotatably coupled to the fluid lens cell (col. 6, lines 1-5). The lens arrangement has a frame where the adapter and the fluid cell form a smooth surface for bearing on the nose of a human (col. 6, lines 39-44).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Epstein et al is cited to show another type of adjustable fluid lens having an attached rigid member, except the rigid member is not removably coupled (it is cemented).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott J. Sugarman whose telephone number is (703)308-4821.

The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9318 for regular communications and (703)872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Scott J. Sugarman
Primary Examiner
Art Unit 2873

sjs
June 19, 2003